



# Department of Justice

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STATEMENT

by

ATTORNEY GENERAL RAMSEY CLARK

before the

SUBCOMMITTEE ON HOUSING

of the

SENATE BANKING AND CURRENCY COMMITTEE

on

S. 1358, Fair Housing

Monday, August 21, 1967

America has faced no crisis comparable to the conditions within its central cities and their effect on the lives of its citizens. For better or for worse, we are an urban people and will remain or become more so. The quality of our lives depends on the quality of our cities.

Our population growth is immense. We have increased 2-1/2 fold thus far this century and will add 70 percent in the remainder. Urbanization, a steady trend, continues. Predominantly rural in 1900, we are three-fourth's urban today. In the first 60 years of this century urban places absorbed 92 percent of our total population growth. But during the last of those six decades, the 1950's, cities absorbed more than 100 percent of our growth. Rural America lost population.

In 1900, three-fourth's of the nation's Negroes lived in rural places, a higher percentage than for the nation as a whole. By 1960, the American Negro was 73 percent urban a higher percentage than the nation as a whole.

As our cities have grown, racial segregation has grown within them. Today there are more people living in segregated portions of cities than ever before. New patterns of segregation are crystalizing. Confined central core areas become non-white while expanding surrounding suburbs are white.

In five years, from 1960 to 1965, the percentage of non-white students rose rapidly in public schools of our great cities--from 50 to 61 percent in Baltimore, from 43 to 55 percent in Detroit, from 40 to 52 percent in Chicago, from 33 to 43 percent in San Francisco, from 49 to 60 percent in St. Louis.

This shift in school population arises from segregation in housing which means inequality for millions of Americans. Housing segregation isolates racial minorities.

Segregation in our cities is inconsistent with our ideals. We must show a doubting world that different races can live together in a free country with equality and justice. Finally, we cannot realistically hope for greatness in our cities while segregation is forced.

Segregation cements the conditions that plague our cities as surely as the bricks and mortar that confine the slums.

Difficulty in supplying the needs of the city in police protection and crime control, in education, employment, health, beauty and recreation, the many essential private and public services, is compounded many times over by segregation.

Income of ghetto inhabitants is decreasing, while suburbia reaches new levels of prosperity. Average family incomes in 1965 were \$4,700 in Watts and \$3,900 in Hough, a comparable ghetto in Cleveland. This represented decreases of eight percent in Watts and 16 percent in Hough during a five-year period when the national average rose 14 percent. Disadvantages in education and health opportunities are major. The proportion of broken families is steadily increasing in all our ghettos.

The 1950's were a decade of progress for America in housing. Never had we built so many new units and the proportion of our population white and non-white living in sub-standard housing declined dramatically. But Negroes moved to and within the city in unprecedented numbers and the non-white urban families living in unsound housing or without plumbing facilities increased from 1.4 million to 1.8 million; over 25 percent. During the same ten years the non-white urban families in overcrowded housing increased from 700,000 to one million; over 40 percent.

The poor Negro paid more for less in housing than the poor white and his choice of location was severely limited both by economics and prejudice.

Even among the non-white families earning \$10,000 a year or more, 15 percent live in substandard housing compared to 3.7 percent of the white families with such incomes.

In 1960, 46 percent of the non-white urban population lived in unsound housing compared with 14 percent of the white urban population. One in four urban non-white lived in units with more than one person per room compared to one in twelve among whites.

Half of the buildings in Harlem were built in the 19th Century.

Sooner or later we must manifest our national commitment to open housing and act on that commitment. Delay will prove costly, both in the faith of millions of Americans in our commitment to equal justice and in creation of new segregation. Trends must be reversed. All parts of our cities must be open to all Americans. Only then we can expect greatness in our cities and goodness in the lives of their citizens.

S. 1358 would gradually prohibit discrimination on account of race, color, religion or national origin in the sale or rental of housing. Housing held for sale or rent by a non-occupant and housing for five or more families would be covered by the proposed law as of January 1, 1968. Other housing would come under the law on January 1, 1969. The practice of profiteers inducing persons to sell their houses at distress prices by representations regarding entry into the neighborhood of members of minority groups, a form of "blockbusting," would be prohibited.

The Secretary of Housing and Urban Development would have primary responsibility for implementation of the title. Any victim of a discriminatory housing practice could file a charge with the Secretary. The Secretary would be required to seek a voluntary solution in every case. If unsuccessful, he could conduct hearings and, should the evidence support a finding of discrimination, could issue a relief order, subject to judicial review. If the Secretary made no discrimination finding, a complainant could take his case to court. The Department of Justice would be empowered to attack patterns or practices of housing discrimination in United States District Court.

Critics of fair housing legislation claim it would invade the privacy of the home. Title IV is aimed not at privacy but at commercial transactions. It would prohibit no one from selling or renting to a relative or to a friend. There is nothing in Title IV to prevent personal choice where personal choice, not discrimination, is the real reason for action.

It would simply assure that houses put up for sale or rent to the public are in fact for sale or rent to the public. It would assure that anyone who answered an advertisement for housing would not be turned away on the basis of his race. It would free the housing market of a barrier which often handicaps not only the Negro buyer but also the white seller.

It is not "forced housing." It is the opposite: open housing, housing unrestricted. It will eliminate widespread forced housing where racial minorities are barred from residential areas and confined to the ghetto and other segregated areas.

Evidence presented before subcommittees of both houses last year clearly established the constitutional basis for this legislation.

It was shown that the housing business is substantially interstate and subject to the commerce clause. Millions of outstanding mortgages are held by lenders who reside in different states from the mortgaged housing. Hardly a home is built which does not contain materials produced in other states. The average family moves its place of residence once every five years, and one out of six moves is across state lines. Production and employment depend on the movement of workers and executives from one state to another. Advertising for new housing often crosses state lines.

The Fourteenth Amendment provides a firm constitutional base for legislation eliminating discrimination in housing. Government action of the past has contributed heavily to discriminatory housing patterns. Until 1947 the federal government fostered discrimination in housing by encouraging and often requiring restrictive racial covenants in deeds where federal mortgage insurance or guarantees were sought. Until 1948 courts enforced private restrictive racial covenants. Even today, many state-licensed real estate agents refuse to show Negroes homes in all-white neighborhoods.

Last May in Reitman v. Mulkey, 35 U.S.L. Week 4473, U.S. May 20, 1967, the Supreme Court affirmed the finding of California's highest court that the amendment to the state constitution popularly known as Proposition 14 "involved the state in private racial discriminations to an unconstitutional degree." The right to discriminate, the Supreme Court found, had been "embodied in the State's basic charter." This particular "state action" has been invalidated by the courts, but the case illustrates both the justification and the need for legislation to enforce the guarantees of the Fourteenth Amendment.

Last year the Supreme Court, in Katzenbach v. Morgan, 384 U.S. 641, demonstrated how firm a base the Fourteenth Amendment is for Title IV. Congress has the constitutional authority and duty to remove whatever it reasonably considers to be a barrier to equal protection of the law, even if the barrier is a product of individual action.

Mr. Justice Cardozo told us 30 years ago that, "property like liberty, though immune under the Constitution from destruction, is not immune from regulations essential for the common good. What the regulations should be, every generation must work out for itself."

Our generation must give its answer to the pervasive problem of segregated housing now.